

WEDNESDAY, 10 o'clock, a. m., Nov. 14, 1849.

The Senate was called to order by the President: the following Senators present—Messrs. Brashear, Burleson, Gage, Grimes, Hart, Latimer, McRae, Moffett, Pease, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip, Walker and Wallace. The journals read and adopted.

Mr. H. Clay Davis, Senator from the Twenty-first Senatorial District, came forward, presented his credentials, and took the oath of office and his seat.

Mr. Phillips, from the Judiciary committee; Mr. Taylor, from the committee on County Boundaries; Mr. Walker, from the committee on Private Land Claims; Mr. Robertson, from the committee on Private Land Claims, and Mr. Walker, chairman of the Select committee, severally made reports.

Mr. Walker offered the following resolution:

Resolved by the Senate, That the Secretary of State be requested to furnish the Senate such information as may be in his possession, in relation to suits instituted by the State against the contractors of the colonies of Peters and his associates and of Charles Fenton Mercer and his associates; whether said contracts have been declared forfeited or not. Adopted.

Mr. Van Derlip offered the following preamble and resolution:

Whereas, It appears, from the official correspondence of Spruce M. Baird, Judge of the District Court of the Eleventh Judicial District of this State with the Executive Department of the State, that a military government has been established by the authority of the Government of the United States over the inhabitants of that portion of the territory of Texas, known as the "county of Santa Fe." And,

Whereas, The Military Commandant of the United States troops in said county has declared that he will sustain said military government at every hazard until otherwise directed by the Federal Government of the United States, thereby preventing the civil organization of said county under the provisions of the Constitution and laws of this State. Therefore,

Be it resolved, That a Special Joint committee consisting of three members of the Senate to act in conjunction with such committee as may be appointed by the House of Representatives, be appointed to prepare a remonstrance and protest of the Legislature of the State of Texas against the further continuance of said military government, to be laid before the Congress of the United States. Adopted.

Messrs. Van Derlip, Portis and Wallace were appointed said committee.

Mr. Phillips offered the following resolution :

Resolved, That the Senate elect a chaplain for and during the present session.

Mr. Grimes moved to lay the resolution on the table, upon which the yeas and nays were called, and stood :

YEAS: Messrs. Cooke, Gage, Grimes, Moffett, Van Derlip and Wallace—6.

NAYS: Messrs. Brashear, Burleson, Davis, Hart, Latimer, McRae, Pease, Phillips, Portis, Robertson, Taylor, Trout, Ward and Walker—14. Lost.

Resolution then adopted by the following vote :

Yeas: Messrs. Brashear, Burleson, Davis, Hart, Latimer, McRae, Pease, Phillips, Portis, Robertson, Taylor, Trout, Ward and Walker—14.

Nays: Messrs. Cooke, Gage, Grimes, Moffett, Van Derlip and Wallace—6.

On motion of Mr. Brashear, Saturday was appointed a day for the election of Chaplain.

On motion of Mr. Robertson, Mr. Davis was added to the committee on Military Affairs, and to the committee on Indian Affairs.

On motion of Mr. Walker, Mr. Cooke was added to the committee on Public Lands.

Mr. Robertson presented the petition of Charles G. Bryant, which was read, and,

On motion of Mr. Robertson, referred to the committee on Military Affairs.

The President appointed Messrs. Grimes, Latimer, Pease, Van Derlip and Moffett a committee on Apportionment, on the part of the Senate.

Mr. Wallace introduced a bill to regulate motions for costs in civil actions; read first time.

Mr. Wallace introduced a bill to authorize and require Judges of the District Courts to hold special sessions thereof in certain cases; read first time.

A message was received from the House of Representatives, through their Chief Clerk, Mr. Benjamin F. Hill, informing the Senate that the House had passed the following bills, viz:

A bill to extend the Eastern boundary of the State of Texas, so as to include within its limits the Western half of Sabine Pass, Lake and River up to the 32° of North latitude.

A bill to amend an act to establish and incorporate the Rutersville College, approved Feb. 5th, 1840. And,

A bill appropriating five thousand dollars for the contingent expenses of both Houses of the Legislature. Also,

Transmitting to the Senate the report of the Secretary of State, with accompanying documents, the reports of the Attorney General, Commissioner of the General Land Office, Adjutant General, and Directors of the Penitentiary.

The Senate proceeded to the

ORDERS OF THE DAY.

A bill to punish officers guilty of extortion ; read second time, and, on motion of Mr. Wallace, referred to the committee on the Judiciary.

A bill to authorize and empower the State, District and County officers to perform the duties of their respective offices until their successors shall be elected and qualified, according to law ; read second time, and,

On motion of Mr. Gage, referred to the committee on the Judiciary.

A bill, relative to land claims belonging to the heirs of deceased soldiers, to which they are entitled under the laws of the late Republic of Texas ; read second time, and,

On motion of Mr. Phillips, referred to the committee on the Judiciary.

A bill to amend an act authorizing and requiring the county courts to regulate roads, appoint overseers, &c. ; read second time, and,

On motion of Mr. Gage, referred to the committee on Roads, Bridges and Ferries.

The following report from Mr. Gage, one of the committee on Indian Affairs, was read.

COMMITTEE ROOM, Nov. 12, 1849.

To the Hon. JOHN A. GREER,

President of the Senate.

The committee on Indian Affairs, to whom was referred a joint resolution instructing our Senators and requesting our Representatives to urge upon the Congress of the United States the passage of a law for the removal of Indians, have had the same under consideration.

The subject of our Indian relations is one of vast importance to the people of Texas. Our situation, in reference to the Indian tribes within our limits, is peculiar and different from that

of any of the new States. Our State has declared, by a joint resolution of the first Legislature, that "we recognize no title in the Indian tribes resident, within the limits of the State, to any portion thereof, and that we recognize no right in the Government of the United States to make any treaty of limits with said Indian tribes without the consent of the Government of this State."

This resolution had reference only to those tribes who properly belonged to Texas, and not to those northern tribes who have, within the last eighteen years, intruded themselves upon this State without the permission of any of the Governments, who have exercised jurisdiction here, during that time. These latter tribes are not recognized as having even the right of occupancy to any portion of the lands within our limits—a portion of them having intruded here from the United States, while Texas formed a part of Mexico, and while she was an independent Republic, in violation of the stipulations of a treaty between the United States and Mexico, which continued in force between the United States and Texas after the independence of the latter; and a portion of them having intruded on Texas since annexation, without the permission or consent of our State authorities.

The thirty-third article of a treaty of amity, commerce and navigation, concluded between the United States of America and the United Mexican States, on the 5th day of April, 1831, declares: "That both parties bind themselves expressly to restrain, by force, all hostilities and incursions on the part of the Indian nations living within their respective boundaries." Notwithstanding the solemn stipulations of this treaty, the United States concluded a treaty with the Caddo nation of Indians, on the first day of July, 1835, by which the latter ceded to the former, "all those lands which were situated on and adjoining the line between Mexico and the United States, and bound themselves to remove out of the boundaries of the United States and the territories belonging and appertaining thereto, within the period of one year after the signing of the said treaty, and never more to return to live, settle or establish themselves as a native tribe or community within the same;" although it was well known, at the time this treaty was made, that a part of said Caddo nation had already crossed over the line into Texas, and that the rest of the nation intended doing so.

Since the conclusion of the aforesaid treaty, of the 5th April, a large number of the Cherokee, Kickapoo, Coshattee, Shawnee, Chickasaw, Choctaw, Creek, Seminole, Delaware, Caddo and other tribes have forcibly entered into the territory of Texas, and

have taken up their residence therein. These tribes have actually waged war upon our citizens, and have constantly incited the Comanches and other wild tribes to acts of hostility.

By the establishment of our independence, Texas succeeded to all the rights and obligations of Mexico under the said treaty of the 5th of April, 1831; and she had the same right, during her existence as an independent nation, as Mexico had previous thereto, to call upon the United States to restrain, by force, all hostilities and incursions upon our territory by the tribes before named. Our position, in reference to those northern tribes, has not been changed by annexation. Having no rights in our territory previous to that period, they are still intruders, and the United States are still bound, in good faith, to restrain their incursions within our limits, and to remove those who have heretofore intruded themselves within our territory, in violation of solemn treaty stipulations, which they were bound to observe.

Entertaining these opinions, your committee believe that this matter should be properly presented to the United States Government, and that the best mode of doing it is that prescribed by the resolution. They, therefore, report it back to the Senate and recommend its adoption.

D. GAGE, One of the Committee.

Joint resolution instructing our Senators and requesting our Representatives to urge upon the Congress of the United States the passage of a law for the removal of Indians; read and ordered to be engrossed.

Resolution authorizing the committee on Printing and Contingent Expenses to subscribe for fifteen copies, tri weekly, of the South-Western American for each member of the Senate; read.

Mr. Brasher moved to amend by inserting "fifteen for President and five for each of the officers of the Senate; rejected.

Mr. Van Derlip moved to amend the resolution so as to allow the President and each member of the Senate 15 copies of the weekly edition; adopted.

Mr. Brashear moved to amend by striking out 15 and inserting 25; lost.

Mr. Robertson moved to amend by adding "and officers of the Senate"; Lost.

Mr. Wallace moved to amend by striking out "15" and inserting "1."

Division of the question being called for, motion to strike out was lost.

The question then recurred on motion of Mr. Wallace to strike out 15 and insert 1; lost.

Mr. Wallace moved to strike out "15" and insert "5."

Mr. Robertson moved to strike out "15" and insert "20"; lost.

The question recurring on motion of Mr. Wallace to strike out 15 and insert 5 was put and lost.

The resolution was then adopted.

The following report from Mr. Phillips, chairman of the Judiciary committee, was read and adopted:

The committee on the Judiciary have had under consideration the petition of Benjamin Bryant, together with the bill responsive thereto, to legitimatize certain children therein named. From the facts presented to the committee in this case, they consider the bill proposed would be giving Legislative sanction to gross immorality, and injuriously affect the rights of others who have a paramount claim to our countenance and protection.—Your committee therefore report the bill and petition back to the Senate, and recommend their indefinite postponement.

Report from the Judiciary committee on a Bill to provide for serving writs or other process on sheriffs, offering a substitute for the bill, was read and adopted.

Mr. Robertson moved to amend the bill by adding the following additional section, to be section 3d:

"That the provisions of this act shall only extend to constables, in case of absence or inability of the coroner." Rejected.

The bill was then ordered to be engrossed.

The following report from the committee on Private Land Claims was read.

COMMITTEE ROOM, Nov. 14, 1849.

To the Hon. JOHN A. GREER,

President of the Senate:

The undersigned, a majority of the committee on Private Land Claims, to whom was referred the petition of sundry citizens of Dallas county, praying for the passage of a law to extend relief to those emigrants who were providentially prevented from arriving in the colony of Wm. C. Peters and his associates previous to the expiration of the time allowed the contractors thereof to fulfill their contract, &c., would beg leave to report that they doubt the power of the Legislature under the articles of annexation to grant the relief prayed for in the petition, and, in the event, the undersigned were disposed to grant the said prayer; there is no evidence—save the petition—that such emigrants, as are named in said petition, do at this time reside

in said colony, except it be one John Jackson. And, whereas, it does appear from the two certificates issued to said Jackson accompanying the petition, one of which bears date March 22, 1848, and issued in England by Wm. S. Peters, agent for said company, and the other was issued, on December 18, 1848, by Henry O. Hedgecoxe, agent for said company at Stewartsville in the said colony.

The undersigned state that it appears, from the receipts before them, that said Jackson and family embarked from Liverpool in due time to arrive in the colony before the expiration of the time aforesaid, and that he arrived at New Orleans and again embarked, on board the steamer Latona, for Shreveport, and arrived there in sufficient time to arrive in said colony by the time aforesaid, that he and family left there immediately in company with others for said colony; all of whom arrived in said colony by the time aforesaid, except the said Jackson and his family; that when they arrived in Mount Pleasant in Titus county, the said Jackson, his wife and three of their children were taken sick, (where one of the children died), which prevented him from arriving in said colony in the time aforesaid. The undersigned would further state that the said Jackson and family are now living in said colony upon the land described in the certificate issued as aforesaid by Henry O. Hedgecoxe, Agent aforesaid. The undersigned would further state that, from the receipts exhibited, it appears that said Jackson not only paid for two land certificates obtained from said company as aforesaid, but he paid his passage from Liverpool to New Orleans £27—from there to Shreveport \$30—at Mount Pleasant he paid \$103 75 for doctor's bills, &c.

For the reasons, then, above stated, the undersigned present the accompanying bill and recommend its passage.

J. B. ROBERTSON,

A. M. TRUIT,

A. G. WALKER.

A bill for the relief of John Jackson of Dallas county; read first time.

The report of Mr. Taylor, from the committee on County Boundaries, was read as follows:

The committee, to whom was referred a bill to be entitled an act for running and establishing correctly the line between Nacogdoches and Fannin land districts, have had the same under consideration, and instructed me to report said bill to the Senate, with amendments, and recommend the passage of the bill as amended.

First amendment—strike out after the words “according to” in the first section, and insert “an act better defining the boundaries of the county of Fannin, approved Nov. 28, 1839.” Second amendment—strike out second section.

Amendments adopted, and bill ordered to be engrossed.

Report from the Judiciary committee on Joint Resolution to provide for the apprehension of Wm. Arthur and Geo. A. Davis offering a substitute therefor; read and adopted—read second time and ordered to be engrossed.

Mr. Walker, chairman of the Select committee, to whom was referred the petition of sundry citizens of Dallas county, praying for the passage of a law for the permanent location of the county seat of said county, reported a bill to be entitled an act to locate the seat of Justice of Dallas. Read first time.

Report of the committee on Private Land Claims on the Petition of B. J. Thompson, recommending its indefinite postponement, was read, and on motion of Mr. Wallace, laid on the table.

Mr. Robertson, chairman of the committee on Private Land Claims, made the following report:

To the Hon. President of the Senate:

The committee on Private Land Claims, to whom was referred the petition and accompanying documents of James Taylor, have had the same under consideration, and after mature reflection, have instructed me to report:

That they have great doubts of the power of the Legislature to legislate on that character of claims, it being a first class claim for a head right league of land, and claimed by the petitioner as a colonist under the colonization laws of Coahuila and Texas in force in 1831. It appears from the vouchers that accompany the petition, that he did not get his certificate until the 1st day of March, 1847, at which date the board of land commissioners of Victoria county, (or those signing themselves as such,) gave him his certificate for one league of land, according to proof of citizenship made before them. But the proof in the opinion of the committee is insufficient and would have been so even if it had been offered to the proper board of land commissioners and within the time prescribed by law. Under this view of the matter the committee report the petition back to the Senate and recommend that it be indefinitely postponed.

J. B. ROBERTSON,
Chairman.

Report of the committee on Private Land Claims on the Petition of James Taylor was read, and,

On motion of Mr. Wallace, report laid on the table, and petition referred to the Judiciary committee.

A bill to be entitled an act to establish and incorporate the Rutersville College; read first time.

On motion of Mr. Pease, the rule requiring bills to be read on three several days, was suspended; bill read second time, and referred to the committee on Education.

A bill to be entitled an act to extend the Eastern boundary of the State of Texas so as to include within its limits the Western half of Sabine Pass, Lake and River up to 32° North latitude; read first time.

A bill to be entitled an act appropriating five thousand dollars for the contingent expenses of both Houses of the Legislature; read first time.

On motion of Mr. Gage, the Senate adjourned.

THURSDAY, 10 o'clock, A. M., Nov. 15, 1849.

The Senate was called to order by the President. Senators present: Messrs. Brashear, Burleson, Davis, Gage, Grimes, Hart, Latimer, McRae, Moffett, Phillips, Portis, Robertson, Taylor, Tuit, Van Derlip, Ward, Walker and Wallace. The Journals of the preceding day were read and adopted.

Mr. Portis, chairman of the committee on Education, to whom was referred a bill to amend an act to establish and incorporate the Rutersville College, approved Feb. 5, 1840, reported the same back to the Senate and recommended its passage.

Mr. Phillips, chairman of the Judiciary committee, to whom was referred a bill to provide for the payment of Jurors, reported a substitute for the same and recommended its adoption.

Mr. Phillips, from the same committee, to whom was referred a bill to authorize and empower all State, District and County officers to perform the duties of their respective offices until their successors shall be elected and qualified, recommended the passage of the bill, with the following amendment: strike out the words "due course of law," in fifth line, section 1, and insert the word "otherwise."